

### **REMARKS**

Upon entry of the forgoing amendments, claims 37-43, 57, and 59-86 are pending in this application with claims 37, 57, 59, 60, 67, 68, 69, 76-78, 85 and 86 being independent claims.

Claims 37 and 57 have been amended to further particularly point out and distinctly claim subject matter regarded as the invention. Support for these changes may be found in the specification in FIG. 11 and on page 27, lines 15-30, among others.

Claims 38, 40, and 42 have been amended as requested in the Office Action.

Claims 44-56 and 58 have been canceled, without prejudice.

New claims 59-86 also particularly point out and distinctly claim subject matter regarded as the invention. See support cited above, among others.

#### **The Double Patenting Rejection**

Claims 37-43 and 57 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-10 of U.S. Patent No. 6,697,086.

Attached hereto is a terminal disclaimer in compliance with 37 C.F.R. § 1.321(c) signed by attorney of record David Ritchie (Reg. No. 31,562) disclaiming any term beyond that of U.S. Patent No. 6,697,086 which is commonly owned with this application. The rejection is thereby rendered moot.

#### **Objection to Claims**

Claims 38, 40, and 42 stand objected to for various informalities. With this paper, these claims have been amended to remove the noted informalities.

Claims 49 and 55 stand objected to for various informalities. However, with this paper, these claims have been canceled thus rendering the objection moot.

The 35 U.S.C. § 112 Rejection

Claims 44, 49, 52, 55, and 58 stand rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. However, with this paper, these claims have been canceled thus rendering the rejection moot.

The 35 U.S.C. § 102 Rejection

Claims 37-51 and 53-58 stand rejected under 35 U.S.C. § 102(e) as being allegedly anticipated by *Yocum et al.* (US 6,433,771 B1). This rejection is respectfully traversed.

Initially, it is noted that with this paper claims 44-51, 53-56, and 58 have been canceled, thus rendering the rejection moot with respect to these claims.

Generally, the Office Action states that *Yocum* discloses or suggests all of the claim elements or limitations. However, *Yocum* (the '771 patent) is not proper prior art to the presently claimed invention. The '771 patent was filed on May 20, 1997. While it is true the '771 patent claims priority to earlier applications, support for the rejection cannot be found in these earlier applications. Thus, the '771 patent is limited to its filing date for priority.

By contrast, priority for the present claims can be traced back to April 25, 1997. This is based on the parent case that was issued as US Patent No. 6,147,674 (the '674 patent). Support for the present claims can be found in the '674 patent in FIG. 19 and column 45, among others. For continuity, FIG. 19 of the '674 patent is the same as the present FIG. 11. Further, the '674 patent has been incorporated by reference for both support and priority.

In view of the above, it is respectfully asserted that the claims are now in condition for allowance.


Request for Allowance

In view of the foregoing, reconsideration and an early allowance of this application are earnestly solicited.

If any matters remain which could be resolved in a telephone interview between the Examiner and the undersigned, the Examiner is invited to call the undersigned to expedite resolution of any such matters. Please charge any additional required fee or credit any overpayment not otherwise paid or credited to our deposit account No. 50-1698.

Respectfully submitted,  
THELEN, REID, & PRIEST LLP

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Khaled Shami  
Reg. No. 38,745

Thelen, Reid, & Priest LLP  
P.O. Box 640640  
San Jose, CA 95164-0640  
Tel. (408) 292-5800  
Fax (408) 287-8040